

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

SABRINA R. BROWN
Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,
Defendant.

*In re: Sabrina R. Brown v. Aerian Joyner,
N.P. and Portsmouth Community Health
Center, Inc. t/a Park Place Family Medical
Center, et al, Case No. CL19004700-00,
Circuit Court for the City of Portsmouth*

Civil Action No. 2:21-cv-0069

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that the United States of America, pursuant to 42 U.S.C. § 233(c) and 28 U.S.C. §§ 1441 and 1446, and on behalf of named defendant “Portsmouth Community Health Center, Inc. t/a Park Place Family Medical Center”¹ hereby removes the matter captioned *Sabrina R. Brown v. Aerian Joyner, N.P. and Portsmouth Community Health Center, Inc. t/a Park Place Family Medical Center, et al*, Case No. CL19004700-00, now pending in the Circuit Court for the City of Portsmouth, Virginia, to the United States District Court for the Eastern District of Virginia, Norfolk Division.

In support of this Notice, the United States of America, the only correct party defendant for “Portsmouth Community Health Center, Inc. t/a Park Place Family Medical Center,”² states as

¹ Plaintiff incorrectly named as a defendant “Park Place Family Medical Center;” the proper name of the facility is “Park Place Family Health Center” (“PPFHC”).

² Portsmouth Community Health Center, Inc. is the official corporate parent of and does business as PPFHC.

follows:

1. "Portsmouth Community Health Center, Inc. t/a Park Place Family Medical Center" has been named as a defendant in an action styled *Sabrina R. Brown v. Aerian Joyner, N.P. and Portsmouth Community Health Center, Inc. t/a Park Place Family Medical Center, et al*, Case No. CL19004700-00, now pending in the Circuit Court for the City of Portsmouth, Virginia. *See Exhibit A.* On or about October 26, 2020, PCHC received, through service or otherwise, a copy of the initial pleading setting forth the claim for relief upon which such action is based. This United States District Court embraces the place in which the state court action is pending.

2. The Complaint alleges medical malpractice by Portsmouth Community Health Center, Inc. t/a Park Place Family Medical Center, and identifies Aerian Joyner, N.P., as responsible for the alleged negligence that occurred at PPFHC. NP Joyner is an employee of PCHC, which does business as PPFHC. In accordance with 42 U.S.C. § 233(c), the United States Attorney for the Eastern District of Virginia has found and certified that PCHC, doing business as PPFHC, and NP Joyner were acting within the scope of their employment as deemed employees of the Public Health Service at the time of the incident in question. *See Exhibit B.*

3. Upon such certification by the United States Attorney, and because Plaintiff alleges personal injury resulting from the performance of medical care and related functions occurring within the scope of PPFHC's and NP Joyner's deemed PHS employment, this action is one that "shall" be removed to this Court. 42 U.S.C. § 233(a) - (c); *see also* 28 U.S.C. §§ 1346(b), 2679. Removal is authorized "at any time before trial." 42 U.S.C. § 233(c). The matter is currently pending in state court, and no trial has occurred or been scheduled.

4. A copy of this notice is being filed on February 2, 2021, with the Clerk of the Circuit Court for the City of Portsmouth, Virginia, pursuant to 28 U.S.C. § 1446(d).

Respectfully submitted,

UNITED STATES OF AMERICA, on behalf of its
DEPARTMENT OF HEALTH AND HUMAN
SERVICES

RAJ PAREKH
ACTING UNITED STATES ATTORNEY

By: /s/

Garry D. Hartlieb, Esq., IL Bar No. 6322571
Assistant United States Attorney
Office of the United States Attorney
101 W. Main Street, Suite 8000
Norfolk, Virginia 23510-1671
Telephone: (757) 441-6331
Facsimile: (757) 441-6689
Email: garry.hartlieb@usdoj.gov
Counsel for United States of America

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served this 2nd day of February, 2021, by United States mail, first class postage paid, addressed to the following:

Mark J. Favaloro, Esq.
Favaloro Law
295 Bendix Road, Suite 210
Virginia Beach, VA 23452
Counsel for Plaintiff

By: /s/
Garry D. Hartlieb, Esq., IL Bar No. 6322571
Assistant United States Attorney
Office of the United States Attorney
101 W. Main Street, Suite 8000
Norfolk, Virginia 23510-1671
Telephone: (757) 441-6331
Facsimile: (757) 441-6689
Email: garry.hartlieb@usdoj.gov
Counsel for United States of America